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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,749

11/13/2003

Louis Plante

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05/01/2006

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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,749	<b>Applicant(s)</b> PLANTE, LOUIS	
	<b>Examiner</b> Michael Brown	<b>Art Unit</b> 3764	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-17-04</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cady in view of Rogers '425.

Cady discloses in figures 1-4 a device for assisting a patient in promoting the expectoration of secretions from the lungs, the device comprising a main unit including a microcontroller (an adjustable frequency generator) 12, configured to generate electrical signals (col. 2, lines 32-35), having a frequency range, a user interface 14 for adjusting the frequency of the electrical signals, an adjustable amplifier 28, a treatment interface including an acoustic transducer 30, an acoustic coupling chamber 34, the microcontroller is configured to generate electrical signs which are sinusoidal (col. 2, lines 32-35), the acoustic chamber is coupled to the acoustic transducer (the chamber is attached to a boom or an arm), the acoustic coupling chamber is composed of a sterilizable material (any material can be sterilized), a display unit (the display unit provides readouts), a memory unit (col. 2, lines 60-64) and input/output (information follows into the microcontroller and out of the microcontroller). However, Cady doesn't disclose the microcontroller having a frequency in the range of 30 Hertz to about 120 Hertz, the analog signals in a range of about 10 Watts to about 50 Watts, the duration of the pulse of the microcontroller being 0.5 seconds, the digital electrical signal having

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amplitude in a range of about 10 Watts to 50 Watts, the air gap being in a range of 1 to 2 inches, the acoustic coupling chamber being detachably coupled to the acoustic transducer, the diameter of the acoustic transducer being in a range of 3 to 6 inches or a digital to analog converter. Rogers teaches in col. 7, lines 20-30 a device for assisting in promoting the expectoration of secretions from the lungs comprising a digital to analog converter. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the digital to analog converter as taught by Rogers could be incorporated into the device disclosed by Cady in order to convert a digital signal to analog. The range of the frequencies, the range of the Watts, the duration of the pulse, the range of the digital signal and the distance of the gap are all capable of being performed by Cady via adjustments being made. The acoustic diameter being in the range of 3 to 6 inches is a design choice. The acoustic coupling chamber is articulated to an arm. The chamber can be releasably in order to be able to replace it because of damage or the desire to have a larger speaker inserted therein. In the computer age is it old and well known to have a keypad with a user interface. It is also old and well known to use LCD as monitors or output units.

### ***Conclusion***

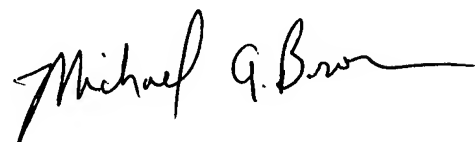
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. No additional prior art was cited in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gergory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown  
April 12, 2006

A handwritten signature in black ink, reading "Michael A. Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

MICHAEL A. BROWN  
PRIMARY EXAMINER